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FILED
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JOHN F. DAVIS, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 994

SEYMOUR POLLACK,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

APPENDIX D TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

Bert B. Rand
Hans A. Nathan
Warren E. Magee
1730 K Street, N.W.
Washington, D. C. 20006
Counsel for Petitioner

APPENDIX D
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Letter of Edward W. Wadsworth, Clerk United States Court of Appeals for the Fifth Circuit, dated September 23, 1969, notifying counsel that the Court transferred the appeal to the summary calendar for disposition D-1

Judgment of the United States Court of Appeals for the Fifth Circuit, dated October 1, 1969, affirming judgment of the District Court pursuant to Rule 18 . . . . . D-4

Order, United States Court of Appeals for the Fifth Circuit, dated October 28, 1969, denying Petition for Rehearing D-5

D. 1

United States Court of Appeals

FIFTH CIRCUIT

OFFICE OF THE CLERK

September 23, 1969

TO COUNSEL OR PARTIES LISTED BELOW:

No. 27762 – U.S.A. v. Seymour (Sy) Pollack

Dear Sirs:

You are hereby notified that a panel of this court, after due consideration and pursuant to Local Rule 18, has transferred the within case ~~to~~ the summary calendar for disposition.

Yours sincerely,

EDWARD W. WADSWORTH, Clerk

By _____
Deputy Clerk

cc: Mr. Fred Blanton, Jr.
Mr. Arthur J. Hanes
Mr. R. Macey Taylor

See Rules 17-20 attached.

COURT RULES

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

NEW RULES 17-20

December 6, 1968

Rule 17.

DOCKET CONTROL

In the interest of docket control, the chief judge may from time to time, in his discretion, appoint a panel or panels to review pending cases for appropriate assignment or disposition under Rules 18, 19 or 20 or any other rule of this court.

Rule 18.

SUMMARY CALENDAR

(a) Whenever the court, sua sponte or on suggestion of a party, concludes that a case is of such character as not to justify oral argument, the case may be placed on the summary calendar.

(b) A separate summary calendar will be maintained for those cases to be considered without oral argument. Cases will be placed on the summary calendar by the clerk, pursuant to directions from the court.

(c) Notice in writing shall be given to the parties or their counsel of the transfer of the case to the summary calendar.

Rule 19.

MOTION TO DISMISS OR AFFIRM

Within fifteen days after the appeal has been docketed in this court, the appellee may file a motion to dismiss or a motion to affirm. Where appropriate, a motion to affirm may be united

in the alternative with a motion to dismiss. The fifteen day provision may be waived by the court on proper showing of reasonable excuse for delay in filing a motion to dismiss or affirm, upon such terms and conditions as the court may prescribe, or such waiver may be granted sua sponte on the part of the court.

(a) The court will receive a motion to dismiss any appeal on the ground that the appeal is not within the jurisdiction of this court.

(b) The court will receive a motion to affirm the judgment sought to be reviewed on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

The motion to dismiss or affirm shall be filed with the clerk in conformity with Rule 27 of the Federal Rules of Appellate Procedure.

The appellant shall have ten days from the date of receipt of the motion to dismiss or affirm within which to file a response opposing the motion. Such response may be typewritten and four copies, with proof of service, shall be filed with the clerk. Upon the filing of such response, or the expiration of the time allowed therefor, or express waiver of the right to file, the record on appeal, motion and response shall be distributed by the clerk to the court for its consideration.

After consideration of the papers distributed pursuant to the foregoing paragraph the court will enter an appropriate order.

The time for filing briefs pursuant to Rule 31 of the Federal Rules of Appellate Procedure shall not be tolled or extended by the filing of a motion to dismiss or affirm.

Rule 20.

FRIVOLOUS AND UNMERITORIOUS APPEALS

If upon the hearing of any interlocutory motion or as a result of a review under Rule 17, it shall appear to the court that the appeal is frivolous and entirely without merit, the appeal will be dismissed without the notice contemplated in Rules 18 and 19.

United States Court of Appeals

FOR THE FIFTH CIRCUIT

[Caption omitted in printing]

JUDGMENT

This cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of Alabama, and was taken under submission by the Court upon the record and briefs on file, pursuant to rule 18;

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be, and the same is hereby, affirmed.

Issued as Mandate: October 1, 1969

IN THE

United States Court of Appeals

FOR THE FIFTH CIRCUIT

[Caption omitted in printing]

ON PETITION FOR REHEARING

Before BELL, AINSWORTH and GODBOLD, Circuit Judges.

PER CURIAM:

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby denied.